

(b) For the purpose of this subdivision, an "aggrieved party" means the party who demands removal to municipal court and means the first party who serves, or files in lieu of serving, a demand for removal if another party also demands removal, and an "opposing party" means any party as to whom the aggrieved party seeks a reversal in whole or in part by removal of the cause to municipal court.

(c) The aggrieved party is the prevailing party in municipal court:

(1) If the aggrieved party recovers any amount or any property in municipal court when the aggrieved party had been denied recovery of any amount or any property by the conciliation judge,

(2) If the opposing party does not recover any amount or any property from the aggrieved party in municipal court when the opposing party had recovered some amount or some property by the order of the conciliation judge,

(3) If the aggrieved party recovers an amount or value of property in municipal court which is at least \$25 in excess of the amount or value of property which the aggrieved party recovered by the order of the conciliation judge, or

(4) If the opposing party recovers from the aggrieved party an amount or value of property in municipal court which is at least \$25 less than the amount or value of property which the opposing party recovered by the order of the conciliation judge.

(d) In all other situations the opposing party shall be deemed to be the prevailing party in municipal court.

(e) Costs or disbursements in the conciliation or municipal court shall not be considered in determining whether there was a recovery by either party in either court or in determining the difference in recovery under this subdivision.

Approved April 26, 1984

CHAPTER 576 — H.F.No. 1655

An act relating to financial institutions; providing an expedited procedure for certain bank applications; providing a uniform examination cycle for all supervised institutions; extending the temporary removal of mortgage usury limits; providing a time period within which notices of the filing of applications for detached facilities must be published; providing prior notice to the commissioner of a change in the ownership of a state bank; bringing state law into conformity with federal law regarding limitations on loans to bank directors, officers, or employees; providing prior notification to the commissioner of the termination or cancellation of a fidelity bond to a bank; authorizing the commissioner, after notification, to order the bank to take action; clarifying the exclusion of bankers' acceptances from the restrictions

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

upon total liabilities to a bank; extending the time period imposed on a bank for the filing of proof of publication of its quarterly report; modifying the definition of "demand deposits" in light of federal deregulation of interest rates; removing the photo identification requirement from the provisions regulating the opening of checking accounts; clarifying service charges on dishonored checks; making various technical changes; amending Minnesota Statutes 1982, sections 45.071, by adding a subdivision; 46.04, subdivision 1; 47.204, subdivision 1; 48.03, subdivision 4; 48.08; 48.13; 48.14; 48.24, subdivision 6; 48.48, subdivisions 1 and 2; 48.51; 51A.50; 52.06, subdivision 1; 53.03, subdivision 4; 53.09, subdivision 1; and 56.12; Minnesota Statutes 1983 Supplement, sections 45.04; 47.54, subdivision 1; 48.512, subdivision 2; 52.203; 53.01; 53.03, subdivisions 1 and 5; 53.04, subdivision 3a; 168.67; and 332.50, subdivision 2; repealing Minnesota Statutes 1982, sections 47.75, subdivision 2; and 51A.44, subdivision 3.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1983 Supplement, section 45.04, is amended to read:

45.04 BANK APPLICATIONS.

Subdivision 1. **FILING; FEE; HEARING.** The incorporators of a bank proposed to be organized under the laws of this state shall execute and acknowledge a written application in the form prescribed by the commissioner of commerce. The application must be signed by two or more of the incorporators and request a certificate authorizing the proposed bank to transact business at the place and in the name stated in the application. The applicant shall file the application with the department with a \$1,000 filing fee and a \$500 investigation fee. The fees must be turned over by the commissioner to the state treasurer and credited to the general fund. Thereupon the commissioner shall fix a time, within 60 days after applicant shall within 30 days of the receipt of the form prescribed by the commissioner, publish a notice of the filing of the application, for a hearing to decide whether or not the application will be granted. A notice of the hearing must be published in the form prescribed by the commissioner in a newspaper published in the municipality in which the proposed bank is to be located, and if there is no such newspaper, then at the county seat of the county in which the bank is proposed to be located. The notice must shall be published once, at the expense of the applicants, not less than 30 days prior to the date of the hearing. At in the hearing form prescribed by the commissioner shall consider the application and hear the applicants and witnesses that appear in favor of or against the granting of the application of the proposed and, in addition to the publication, the applicant shall mail a copy of the notice by certified mail to every bank located within three miles of the proposed location of the bank. If an application is contested, 50 percent of an additional fee equal to the actual costs incurred by the department of commerce in approving or disapproving the application, payable to the state treasurer and credited by the treasurer to the general fund, must be paid by the applicant and 50 percent equally by the intervening parties.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 2. **UNCONTESTED APPLICATION APPROVAL ORDER.** If no objection is received by the commissioner within 21 days after the publication and mailing of the notices, the commissioner may issue an order approving the application without a hearing if it is found that the applicant meets the conditions in section 45.07. Otherwise the commissioner must deny the application.

Subd. 3. **OBJECTIONS; HEARING.** If the application is contested, the commissioner shall fix a time, within 60 days after the filing of the objection for a hearing, and the record of the hearing shall be considered by the commissioner in deciding whether or not the application shall be granted. A notice of the hearing must be published in the form prescribed by the commissioner in some newspaper published in the municipality in which the proposed bank is to be located, and if there is no such newspaper, then at the county seat of the county in which the bank is proposed to be located. The notice shall be published once, at the expense of the applicants, not less than 30 days prior to the date of the hearing. At the hearing the commissioner shall consider the application and hear the applicants and such witnesses as may appear in favor of or against the granting of the application of the proposed bank. The hearing shall be conducted by the commissioner in accordance with the provisions of sections 14.01 to 14.70.

Subd. 4. **APPROVAL, DISAPPROVAL, AFTER HEARING.** If, upon the hearing, it appears to the commissioner that the application should be granted, he shall, not later than 90 days after the hearing, and after the applicants have otherwise complied with the provisions of law applicable to the organization of a bank, including the provisions herein contained, make and file in his office a written order directing the issuance of a certificate of authorization as provided by law. If the certificate of authorization is not activated within a period of 12 months from date of issuance, the commissioner may upon written notice to the applicants request a new hearing. If the commissioner decides that the application should not be granted, he shall deny the application and make a written order to that effect, file it in his office, and forthwith give notice thereof by certified mail to one of the incorporators named in the application for the proposed bank, addressed to the incorporator at the address stated in the application. Thereupon the commissioner shall refuse to issue the certificate of authorization to the proposed bank.

Sec. 2. Minnesota Statutes 1982, section 45.071, is amended by adding a subdivision to read:

Subd. 2a. **CERTAIN TRUST COMPANIES; SECURED DEPOSIT EXCEPTIONS; VIOLATIONS.** The requirements of this section may be met by trust companies not exercising banking powers, with the exception of deposit activities as defined in this subdivision, provided the following conditions are met:

(a) the number of nonfiduciary deposit accounts does not exceed 35, and;

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(b) the total amount held in nonfiduciary deposit accounts does not exceed five percent of the aggregate of the trust company's capital stock, surplus, and undivided profits, and;

(c) the nonfiduciary funds deposited with the trust company referred to in (a) and (b) shall be secured against loss by the assignment, transfer to, and deposit with the commissioner of commerce or his designee, of direct obligations of the United States government in an amount, based upon the securities market value, of not less than 110 percent of such deposited funds, with the right of the trust company to collect the income and to substitute other like securities of equal value, and;

(d) each account holder must be disclosed to in writing that the account is not insured by the federal or state governments or their agencies, and;

(e) the determination of the limitations in (a) and (b) shall be made by the trust company from the records of the trust company and based upon statement of financial condition at the close of each business day, and security deposit defined in (c) adjusted if needed within one business day thereafter, and;

(f) any violation of the requirements in (a) through (e) of this subdivision shall be grounds for action by the commissioner under sections 46.24 to 46.33.

Sec. 3. Minnesota Statutes 1982, section 46.04, subdivision 1, is amended to read:

Subdivision 1. The commissioner of banks commerce, referred to in Minnesota Statutes, Chapters 46 to 59, as the commissioner, is vested with all the powers, authority, and privileges which, prior to the enactment of Laws 1909, Chapter 201, were conferred by law upon the public examiner, and he or she shall take over all duties in relation to state banks, savings banks, trust companies, savings associations, and other financial institutions within the state which, prior to the enactment of chapter 201, were imposed upon the public examiner. The commissioner of banks commerce shall exercise a constant supervision, either personally or through the examiners herein provided for, over the books and affairs of all state banks, savings banks, trust companies, savings associations, credit unions, industrial loan and thrift companies, and other financial institutions doing business within this state; and shall, through examiners, examine each financial institution at least once annually every 18 calendar months. In satisfying this examination requirement, the commissioner may accept reports of examination prepared by a federal agency having comparable supervisory powers and examination procedures. With the exception of industrial loan and thrift companies which do not have deposit liabilities and small loan companies licensed regulated lenders, it shall be the principal purpose of these examinations to inspect and verify the assets and liabilities of each and so far investigate the character and value of the assets of each institution as to determine with reasonable certainty that the values are correctly carried on its books. Assets

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

and liabilities shall be verified in accordance with methods of procedure which the commissioner may determine to be adequate to carry out the intentions of this section. It shall be the further purpose of these examinations to assess the adequacy of capital protection and the capacity of the institution to meet usual and reasonably anticipated deposit withdrawals and other cash commitments without resorting to excessive borrowing or sale of assets at a significant loss, and to investigate each institution's compliance with applicable laws and regulations. Based on the examination findings, the commissioner shall make a determination as to whether the institution is being operated in a safe and sound manner. None of the above provisions limits the commissioner in making additional examinations as deemed necessary or advisable. The commissioner shall investigate the methods of operation and conduct of these institutions and their systems of accounting, to ascertain whether these methods and systems are in accordance with law and sound banking principles. The commissioner may make requirements as to records as deemed necessary to facilitate the carrying out of his or her duties and to properly protect the public interest. The commissioner may examine, or cause to be examined by these examiners, on oath, any officer, director, trustee, owner, agent, clerk, customer, or depositor of any financial institution touching the affairs and business thereof, and may issue, or cause to be issued by the examiners, subpoenas, and administer, or cause to be administered by the examiners, oaths. In case of any refusal to obey any subpoena issued under the commissioner's direction, the refusal may at once be reported to the district court of the district in which the bank or other financial institution is located, and this court shall enforce obedience to these subpoenas in the manner provided by law for enforcing obedience to subpoenas of the court. In all matters relating to his official duties, the commissioner of banks commerce has the power possessed by courts of law to issue subpoenas and cause them to be served and enforced, and all officers, directors, trustees, and employees of state banks, savings banks, trust companies, savings associations, and other financial institutions within the state, and all persons having dealings with or knowledge of the affairs or methods of these institutions, shall afford reasonable facilities for these examinations, make returns and reports to the commissioner of banks commerce as the commissioner may require; attend and answer, under oath, the commissioner's lawful inquiries; produce and exhibit any books, accounts, documents, and property as the commissioner may desire to inspect, and in all things aid the commissioner in the performance of his or her duties.

Sec. 4. Minnesota Statutes 1982, section 47.204, subdivision 1, is amended to read:

Subdivision 1. **NO USURY LIMITS.** Notwithstanding any law to the contrary, no limitation on the rate or amount of interest, discount points, finance charges or other charges shall apply to a loan, mortgage, credit sale or advance which would have been exempt from the laws of this state pursuant to Pub. L. 96-221, Title V, Part A, Section 501, as amended as of June 2, 1981, but for

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

section 47.203 and which is made in this state after June 2, 1981 and before August 1, ~~1984~~ 1987.

Sec. 5. Minnesota Statutes 1983 Supplement, section 53.04, subdivision 3a, is amended to read:

Subd. 3a. (a) The right to make loans, secured or unsecured, at the rates and on the terms and other conditions permitted licensees under chapter 56. Loans made under the authority of chapter 56 must be in amounts in compliance with section 53.05, clause (3), or 56.131, subdivision 1, paragraph (a), whichever is less. The right to extend credit or lend money and to collect and receive charges therefor as provided by chapter 334, or in lieu thereof to charge, collect, and receive interest at the rate of 21.75 percent per annum. The provisions of sections 47.20 and 47.21 do not apply to loans made under this section, except as specifically provided in this subdivision. Nothing in this subdivision is deemed to supersede, repeal, or amend any provision of section 53.05. A licensee making a loan under this chapter secured by a lien on real estate shall comply with the requirements of section 47.20, subdivision 8.

(b) Loans made under this section at a rate of interest not in excess of that provided for in paragraph (a) may be secured by real or personal property, or both. If the proceeds of a loan made after August 1, ~~1984~~ 1987 are used in whole or in part to satisfy the balance owed on a contract for deed, the rate of interest charged on the loan must not exceed the rate provided in section 47.20, subdivision 4a. If the proceeds of a loan secured by a first lien on the borrower's primary residence are used to finance the purchase of the borrower's primary residence, the loan must comply with the provisions of section 47.20.

(c) A loan made under this section that is secured by real estate and that is in a principal amount of \$7,500 or more and a maturity of 60 months or more may contain a provision permitting discount points, if the loan does not provide a loan yield in excess of the maximum rate of interest permitted by this subdivision. Loan yield means the annual rate of return obtained by a licensee computed as the annual percentage rate is computed under Federal Regulation Z. If the loan is prepaid in full, the licensee must make a refund to the borrower to the extent that the loan yield will exceed the maximum rate of interest provided by this subdivision when the prepayment is taken into account.

Sec. 6. Minnesota Statutes 1982, section 56.12, is amended to read:

56.12 ADVERTISING; TAKING OF SECURITY; PLACE OF BUSINESS.

No licensee shall advertise, print, display, publish, distribute, or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner any statement or representation with regard to the rates, terms, or conditions for the lending of money, credit, goods, or things in action which is false, misleading, or deceptive. The commissioner may order any

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

licensee to desist from any conduct which he shall find to be a violation of the foregoing provisions.

The commissioner may require that rates of charge, if stated by a licensee, be stated fully and clearly in such manner as he may deem necessary to prevent misunderstanding thereof by prospective borrowers. A statement of rates of charge that meets the requirements of the federal Truth-in-Lending Act and regulations thereunder shall be deemed full compliance with this section.

A licensee may take a lien upon real estate as security for any loan exceeding \$2,700 in principal amount made under this chapter. The provisions of sections 47.20 and 47.21 do not apply to loans made under this chapter, except as provided in this section. No loan secured by a first lien on a borrower's primary residence shall be made pursuant to this section if the proceeds of the loan are used to finance the purchase of the borrower's primary residence, unless:

(1) the proceeds of the loan are used to finance the purchase of a manufactured home; or

(2) the proceeds of the loan are used in whole or in part to satisfy the balance owed on a contract for deed. The rate of interest charged on such a loan made after August 1, 1984 1987, shall not exceed the rate provided in section 47.20, subdivision 4a.

If the proceeds of the loan are used to finance the purchase of the borrower's primary residence, the licensee shall consent to the subsequent transfer of the real estate if the existing borrower continues after transfer to be obligated for repayment of the entire remaining indebtedness. The licensee shall release the existing borrower from all obligations under the loan instruments, if the transferee (1) meets the standards of credit worthiness normally used by persons in the business of making loans, including but not limited to the ability of the transferee to make the loan payments and satisfactorily maintain the property used as collateral, and (2) executes an agreement in writing with the licensee whereby the transferee assumes the obligations of the existing borrower under the loan instruments. Any such agreement shall not affect the priority, validity or enforceability of any loan instrument. A licensee may charge a fee not in excess of one-tenth of one percent of the remaining unpaid principal balance in the event the loan is assumed by the transferee and the existing borrower continues after the transfer to be obligated for repayment of the entire assumed indebtedness. A licensee may charge a fee not in excess of one percent of the remaining unpaid principal balance in the event the remaining indebtedness is assumed by the transferee and the existing borrower is released from all obligations under the loan instruments, but in no event shall the fee exceed \$150.

A licensee making a loan under this chapter secured by a lien on real estate shall comply with the requirements of section 47.20, subdivision 8.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

No licensee shall conduct the business of making loans under this chapter within any office, room, or place of business in which any other business is solicited or engaged in, or in association or conjunction therewith, if the commissioner finds that the character of the other business is such that it would facilitate evasions of this chapter or of the rules and regulations lawfully made hereunder. The commissioner may promulgate rules dealing with such other businesses.

No licensee shall transact the business or make any loan provided for by this chapter under any other name or at any other place of business than that named in the license. No licensee shall take any confession of judgment or any power of attorney. No licensee shall take any note or promise to pay that does not accurately disclose the principal amount of the loan, the time for which it is made, and the agreed rate or amount of charge, nor any instrument in which blanks are left to be filled in after execution. Nothing herein is deemed to prohibit the making of loans by mail.

Sec. 7. Minnesota Statutes 1983 Supplement, section 47.54, subdivision 1, is amended to read:

Subdivision 1. **APPLICATION.** Any bank desiring to establish a detached facility shall execute and acknowledge a written application in the form prescribed by the commissioner and shall file the application in the commissioner's office with a fee of \$500. If an application is contested, 50 percent of an additional fee equal to the actual costs incurred by the commissioner in approving or disapproving the application, payable to the state treasurer and credited by the treasurer to the general fund, shall be paid by the applicant and 50 percent equally by the intervening parties. ~~Thereupon~~ The applicant shall within 30 days of the receipt of the form prescribed by the commissioner publish a notice of the filing of the application in a newspaper published in the municipality in which the proposed detached facility is to be located, and if there is no such newspaper, then at the county seat of the county in which the facility is proposed to be located. ~~The notice must be in the form prescribed by the commissioner and,~~ In addition to the publication, the applicant must mail a copy of the notice by certified mail to every bank located within three miles of the proposed location of the detached facility, measured in the manner provided in section 47.52.

Sec. 8. Minnesota Statutes 1982, section 48.03, subdivision 4, is amended to read:

Subd. 4. Whenever a change ~~occurs~~ in the outstanding voting stock of any state bank ~~which~~ will result in control or in a change in the control of the bank, the president or cashier of such bank shall ~~promptly report such facts to file notice of the proposed acquisition of control with~~ the commissioner of banks ~~upon obtaining knowledge~~ commerce at least 30 days prior to the actual effective date of such the change. As used in this section, the term "control" means the power to directly or indirectly direct or cause the direction of the management or

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

policies of the bank. A change in ownership of capital stock which would result in direct or indirect ownership by a stockholder or an affiliated group of stockholders of less than 25 percent of the outstanding capital stock shall not be considered a change of control. If there is any doubt as to whether a change in the outstanding voting stock is sufficient to result in control thereof or to effect a change in the control thereof, such doubt shall be resolved in favor of reporting the facts to the commissioner. This requirement to file prior notice does not imply the need for prior approval by the commissioner of commerce.

Sec. 9. Minnesota Statutes 1982, section 48.08, is amended to read:

48.08 DIRECTORS AND OFFICERS, RESTRICTED USE OF BANK FUNDS; DEALINGS WITH BANK.

No director, officer or employee shall, directly or indirectly, in any manner, use the funds of the bank, or any part thereof, except in its regular business transactions, and every loan made to any of its directors, officers, employees, or agents shall be upon the same security required of others and in strict conformity to its rules and regulations. Every such loan, or line of credit for a stated amount and not to run for more than one year, shall be authorized in advance by the board and acted upon in the absence of the applicant, except that a loan to a director, officer, or employee for an amount which will not increase such a liability to exceed the greater of (a) \$25,000 or (b) five percent of the bank's capital and unimpaired surplus or \$500,000, whichever is less, may be made without previous approval but shall be acted upon by the board at the next succeeding regular meeting. No cashier or other officer or employee of a bank shall sell to the bank, directly or indirectly, any mortgage, bond, note, stock, or other security without the written approval of the board of directors, filed in the office of the bank or embodied in a resolution adopted by the board. A copy of this written approval or resolution shall immediately be sent to the commissioner of banks commerce.

Sec. 10. Minnesota Statutes 1982, section 48.13, is amended to read:

48.13 CONDITIONS OF BONDS.

If a bond is given, it shall be in favor of the bank and shall have one corporate surety, which shall be a solvent insurance corporation in good standing authorized to do business in Minnesota, or at least five individual sureties, not one of whom shall be an officer, director, or stockholder of the bank, and each of whom shall justify in a sum equal to the penalty of the bond and, in addition thereto, each individual surety shall furnish to the bank, in connection with the bond, a verified financial statement showing his solvency and responsibility, which statement shall be renewed and revised annually by each surety. If a contract of insurance is secured, it shall be in favor of the bank and shall be executed by some insurance company possessing the qualifications heretofore specified. No cancellation or termination at the request of the underwriter of a

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

bond or contract of insurance required by section 48.12 shall be effective unless the underwriter gives in advance at least 60 days written notice by registered mail to the commissioner of commerce.

Sec. 11. Minnesota Statutes 1982, section 48.14, is amended to read:

48.14 EXAMINATIONS, REPORTS TO SHOW NAMES OF BONDED OFFICERS AND EMPLOYEES.

When an examination is made of a bank by the commissioner, or his examiner, the report of the examination made to the commissioner shall state the names of all the officers and employees of the bank so bonded or insured, and the penalty of the bonds or the amount of the insurance covering them. When blanket coverage is provided, the names of all the officers and employees need not be stated. When the commissioner, after an investigation, or upon receipt of a notice of cancellation or other termination required by section 48.13, finds as a fact that any bank is not adequately protected against loss by reason of the unlawful act of any officer or employee thereof, whether through the omission to secure any bond or contract of insurance, or through the insufficiency of the sureties or the insurer on the bond or policy given, or otherwise, he may require, by written order, that such bonds or contracts of insurance in favor of the bank be obtained as in his opinion would adequately protect the bank against loss by reason of the unlawful act of any of its officers or employees, and shall thereupon notify the bank, by certified mail, of his order; and, if the same is not complied with within 30 days after the date of the mailing of the order, the bank may be closed by him and, if closed, shall not be permitted to resume business until the order has been fully complied with. All such bonds or contracts of insurance shall remain in the custody of the bank protected thereby and shall be available for examination and inspection by the commissioner.

Sec. 12. Minnesota Statutes 1983 Supplement, section 48.512, subdivision 2, is amended to read:

Subd. 2. **REQUIRED INFORMATION.** Before opening or authorizing signatory power over a transaction account, a financial intermediary shall require one applicant to provide the following information on an application document signed by the applicant:

- (a) full name;
- (b) birth date;
- (c) address of residence;
- (d) address of current employment, if employed;
- (e) telephone numbers of residence and place of employment, if any;
- (f) social security number;

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(g) driver's license or identification card number issued pursuant to section 171.07. If the applicant does not have a driver's license or identification card, the applicant may provide an identification document number issued for identification purposes by any state, federal, or foreign government if the document includes the applicant's photograph, full name, birth date, and signature. A valid Wisconsin driver's license without a photograph may be accepted in satisfaction of the requirement of this paragraph until January 1, 1985;

(h) whether the applicant has had a transaction account at the same or another financial intermediary within 12 months immediately preceding the application, and if so, the name of the financial intermediary;

(i) whether the applicant has had a transaction account closed by a financial intermediary without the applicant's consent within 12 months immediately preceding the application, and if so, the reason the account was closed; and

(j) whether the applicant has been convicted of a criminal offense because of the use of a check or other similar item within 24 months immediately preceding the application.

A financial intermediary may require an applicant to disclose additional information.

An applicant who makes a false material statement that he does not believe to be true in an application document with respect to information required to be provided by this subdivision is guilty of perjury. The financial intermediary shall notify the applicant of the provisions of this paragraph.

Sec. 13. Minnesota Statutes 1982, section 48.24, subdivision 6, is amended to read:

Subd. 6. The discount of the following classes of paper shall not be regarded as creating liability within the meaning of this section:

(1) Bonds, orders, warrants, or other evidences of indebtedness of the United States, of federal land banks, of this state or of any county, city, town, or school district in this state, or of the bonds, representing general obligation of any other state in the United States, or bonds and obligations of the federal home loan banks established by act of congress known as the federal home loan bank act, approved July 23, 1932, and acts amendatory thereto, or debentures and other obligations of the federal intermediate credit banks established by act of congress known as the federal intermediate credit banks act, approved March 4, 1923, and acts amendatory thereto, in obligations issued by the banks for cooperatives or any of them, and in bonds and obligations of the home owners' loan corporation established by act of congress, known as the home owners' loan act of 1933, and acts amendatory thereto, in exchange for mortgages on homes, or contracts for deed, or real estate held by it.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(2) Bills of exchange drawn in good faith against actually existing values, including bills which are secured by shipping documents conveying or securing title to goods shipped, and which are not to be surrendered until such bills are paid in cash or solvent credits. This includes bankers' acceptances or participations in bankers' acceptances of the kind and maturities made eligible by law for rediscount with, or purchase by, federal reserve banks, providing the same are accepted or endorsed by a bank or trust company incorporated under the laws of this state; or by any bank or trust company in the United States which is a member of the federal reserve system.

(3) Paper based upon the collateral security of warehouse receipts covering agricultural or manufactured products stored in elevators or warehouses under the following conditions:

First, when the actual market value of the property covered by such receipts at all times exceeds by at least ten percent the amount loaned thereon, and

Second, when the full amount of every such loan is at all times covered by fire insurance in duly authorized companies, within the limit of their ability to cover such amounts, and the excess, if any, in companies having sufficient paid-up capital to authorize their admission, and payable, in case of loss, to the bank or holder of the warehouse receipt.

(4) Total loans to an obligor secured by either certificates of deposit, or savings certificates or both, of any such bank to the extent of the total of such certificates pledged as security.

(5) Debentures issued under the authority of the federal national mortgage association.

(6) Obligations representing loans from one business day to the next to any state bank or national banking association of excess reserve balances from time to time maintained under the provisions of Minnesota Statutes, Section 48.22, or of section 19 of the Federal Reserve Act, as amended, 12 U.S.C. sections 461 et seq.

Sec. 14. Minnesota Statutes 1982, section 48.48, subdivision 1, is amended to read:

Subdivision 1. **SUBMISSION AND PUBLICATION.** At least four times in each year, and at any other time when so requested by the commissioner, every bank or trust company shall, within 30 days of the date of notice, make and transmit to the commissioner, in a form he prescribes, a report, verified by its president or vice-president and by its cashier or treasurer, and attested by at least two of its directors, stating in detail, under appropriate heads, as required by the commissioner, its assets and liabilities at the close of business on the day specified in the request. The commissioner may accept a report made to a federal authority having supervision of banks or trust companies in fulfilling this

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

requirement. This statement shall be published once at the expense of the bank or trust company in a newspaper serving the municipality or town in which the bank or trust company is located. The newspaper shall be published in the county in which the bank or trust company is located or in an adjoining county. Proof of publication shall be filed with the commissioner immediately after publication of the report, but no later than 60 days following the date of the notice. For the purposes of this subdivision a newspaper serves a municipality or town if it meets the qualifications of section 331.02, subdivision 1, clause (4).

Sec. 15. Minnesota Statutes 1982, section 48.48, subdivision 2, is amended to read:

Subd. 2. **PENALTIES FOR LATE SUBMISSION.** For failure to send these reports to the commissioner in the time specified, a bank or trust company shall forfeit to the state the sum of \$25 for each day of delay and shall pay the accumulated sum to the commissioner upon a formal demand for payment by the commissioner. If it appears that a report was mailed by a bank or trust company on or before the end of the 30 day period, or proof of publication mailed on or before the end of the 60-day period, the commissioner shall waive any forfeit. In the event it does not appear that a report was timely mailed, the commissioner may nevertheless waive forfeit upon a showing by the bank or trust company to the satisfaction of the commissioner that failure to send the reports was the result of causes beyond the control of the bank or trust company.

Sec. 16. Minnesota Statutes 1982, section 48.51, is amended to read:

48.51 DEMAND DEPOSITS DEFINED.

For the purpose of sections 48.50 and 48.51, all deposits are payable on demand except:

(1) Those deposits which are evidenced by a negotiable or non-negotiable instrument which provides on its face that the amount of the deposit is payable:

(a) on a certain date, specified in the instrument, not less than 14 days after the date of the deposit; or (b) at the expiration of a specified period not less than 14 days after the date of the instrument; or (c) upon written notice to be given not less than 14 days before the date of repayment.

(2) Those deposits which may not be withdrawn within 14 days of the making thereof.

(3) Those deposits which may not be withdrawn within 14 days of the giving of notice of an intended withdrawal.

(4) Those deposits in which the above 14-day minimums are in conflict with instruments authorized by the depository institutions deregulation committee's regulations authorized by title II, Depository Institutions Deregulation and Monetary Control Act of 1980, Public Law Number 96-221.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 17. Minnesota Statutes 1982, section 52.06, subdivision 1, is amended to read:

Subdivision 1. Credit unions shall be under the supervision of the commissioner of banks commerce. Each credit union shall annually, on or before January 25, file a report with the commissioner of banks commerce on forms supplied by him for that purpose giving such relevant information as he may require concerning the operations during the preceding calendar year. Additional reports may be required. Credit unions shall be examined, at least annually once every 18 calendar months, by the commissioner of banks commerce, except that if a credit union requests, the commissioner may accept the audit of a certified public accountant in place of this examination. Such certified public accountant must be approved by the commissioner. The qualitative type of audit examination to be performed by the certified public accountant shall be defined by banking division regulation and approved by the commissioner. Further, in lieu of this examination the commissioner may accept any examination made by the National Credit Union Administration, provided a copy of the examination is furnished to the commissioner. A report of the examination by the commissioner of banks commerce shall be forwarded to the president, or the chairman of the board if the position is so designated pursuant to section 52.09, subdivision 4, of the examined credit union within 60 days after completion of the examination. Within 60 days of the receipt of such report, a general meeting of the directors and committees shall be called to consider matters contained in the report. For failure to file reports when due, unless excused for cause, the credit union shall pay to the state treasurer \$5 for each day of its delinquency.

Sec. 18. Minnesota Statutes 1983 Supplement, section 52.203, is amended to read:

52.203 MERGER.

Any credit union chartered by this state may merge with and be absorbed by any other state or federal credit union, and any credit union chartered by this or any other state or any federal credit union may be merged into a successor credit union chartered by this state, upon approval of all regulatory agencies concerned, and upon compliance with this section as regards the credit union chartered by this state. At the time of filing with the commissioner of any proposed merger or consolidation plan, the credit unions proposing to merge or consolidate shall submit a fee of \$100 payable to the commissioner of banks commerce. The fee shall be paid in equal parts by the credit unions' party to the proposal.

A credit union may be absorbed after two-thirds of its members present and entitled to vote have voted in favor of the merger at a special meeting called by a majority of the board of directors for that purpose, upon 14-days mailed written notice to each member at his last known address clearly stating the purpose of the special meeting, or at any regular meeting after like notice of the

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

purpose has been given. Thereafter, the board of directors may execute an agreement of merger with the successor credit union, subject to approval of the agreement by the commissioner of banks commerce. The commissioner shall approve or disapprove of the agreement within 60 days of the date the agreement is submitted to him. The approved agreement must be filed with the county recorder in the county where the credit union is located secretary of state.

If the successor credit union which absorbs one or more credit unions is chartered by this state it may execute an agreement of merger upon approval of the agreement by the commissioner of banks commerce and by the board of directors of the credit union. The commissioner of banks commerce shall approve the merger agreement if it is in the best interest of the credit unions involved. In any event, the commissioner of banks commerce shall approve or disapprove of the merger agreement within 60 days of the date the agreement is submitted to him. Members of, and persons eligible for membership in, the credit union being absorbed have all rights of membership in the successor credit union.

The charter and license and all other rights and property of the credit union being absorbed is deemed to be transferred to and invested in the successor credit union upon execution and approval of the merger agreement without further action. Any pending action or other judicial proceeding to which the credit union being absorbed is a party at the date of merger does not abate by reason of the merger. If the credit union being absorbed is chartered by this state, its corporate existence ceases upon the execution and approval of the merger agreement without further action.

Sec. 19. Minnesota Statutes 1983 Supplement, section 53.01, is amended to read:

53.01 ORGANIZATION.

It is lawful for three or more persons, who desire to form a corporation for the purpose of carrying on primarily the business of loaning money to persons within the conditions set forth in this chapter, to organize, under this chapter, an industrial loan and thrift company, by filing with the secretary of state a certificate articles of incorporation, and upon paying the fees prescribed by sections 301.07 and 301.071 or chapter 302A and upon compliance with the procedure provided for the organization and government of ordinary corporations under the laws of this state, and upon compliance with the additional requirements of this chapter prior to receiving authorization to do business.

Sec. 20. Minnesota Statutes 1983 Supplement, section 53.03, subdivision 1, is amended to read:

Subdivision 1. **APPLICATION, FEE, NOTICE.** Any corporation hereafter organized as an industrial loan and thrift company, shall, after compliance with the requirements set forth in sections 53.01 and 53.02, file a written

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

application with the department of commerce for a certificate of authorization. The application, in ~~triplicate~~ duplicate, must be in the form prescribed by the department of commerce. The application must be made in the name of the corporation, executed and acknowledged by two of its officers designated by the board of directors of the corporation for that purpose, requesting a certificate authorizing the corporation to transact business as an industrial loan and thrift company, at the place and in the name stated in the application. At the time of filing the application the applicant shall pay a \$1,000 filing fee and a \$500 investigation fee. The fees must be turned over by the commissioner to the state treasurer and credited to the general fund. The applicant shall also submit a copy of the bylaws of the corporation, its articles of incorporation and all amendments thereto at that time. If the application is contested, 50 percent of an additional fee equal to the actual costs incurred by the department of commerce in approving or disapproving the application, payable to the state treasurer and credited to the general fund shall be paid by the applicant and 50 percent equally by the intervening parties. A notice of the filing of the application must be published once within 30 days of the receipt of the form prescribed by the department of commerce, at the expense of the applicant, in a newspaper published in the municipality in which the proposed industrial loan and thrift company is to be located, or, if there be none, in a newspaper published at the county seat of the county in which the company is proposed to be located. If the department of commerce receives a written objection to the application from any person within 20 days of the notice having been fully published a contested case hearing must be conducted on the application. The department of commerce may without cause order a contested case hearing on the application. Notice of a hearing in connection with this section must be published once in the form prescribed by the department of commerce, at the expense of the applicant, in the same manner as a notice of application.

Sec. 21. Minnesota Statutes 1982, section 53.03, subdivision 4, is amended to read:

Subd. 4. **FILING CERTIFICATE.** The certificate of authorization granted shall be filed in the places specified for filing the ~~certificate~~ articles of incorporation in section 53.01. The corporation shall thereupon become an industrial loan and thrift company.

Sec. 22. Minnesota Statutes 1983 Supplement, section 53.03, subdivision 5, is amended to read:

Subd. 5. **PLACE OF BUSINESS.** Not more than one place of business may be maintained under any certificate of authorization issued subsequent to the enactment of Laws 1943, chapter 67, pursuant to the provisions of this chapter, but the department of commerce may issue more than one certificate of authorization to the same corporation upon compliance with all the provisions of this chapter governing an original issuance of a certificate of authorization. The

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

filing fee for a branch application shall be \$500 and the investigation fee \$250. If a corporation has been issued more than one certificate of authorization, the corporation shall allocate a portion of contributed capital to each office for which a certificate has been issued, in order to comply with the capital requirements of section 53.02 and section 53.05, clause (2), which sections are applicable to each office and the capital allocated thereto in the same manner as if each certificate had been issued to a separate corporation. Each additional certificate of authorization issued pursuant to the provisions of this subdivision must be filed with the secretary of state ~~and the county recorder of the county in which the corporation is authorized to do business thereunder.~~ A corporation may change one or more of its locations upon the written approval of the commissioner of ~~banks~~ commerce. A fee of \$100 must accompany each application to the commissioner for approval to change the location of an established office.

Sec. 23. Minnesota Statutes 1982, section 53.09, subdivision 1, is amended to read:

Subdivision 1. **FREQUENCY AND EXPENSE.** The commissioner shall make examinations, at least once ~~each year~~ every 18 calendar months, of each authorized place of business of every industrial loan and thrift company organized or operating under this chapter, at which time he shall satisfy himself that the corporation is in a solvent condition and is complying with the requirements of this chapter and operating according to sound business principles. In order to enforce his actions in this connection, the commissioner is hereby vested with the same authority as in his examination and regulation of state banks. The corporation so examined shall pay to the commissioner such fees as may be required under section 46.131. The commissioner may maintain an action for the recovery of such costs in any court of competent jurisdiction.

Sec. 24. Minnesota Statutes 1983 Supplement, section 168.67, is amended to read:

168.67 SALES FINANCE COMPANIES; LICENSES, FEES, RE-FUNDS.

(a) No person shall engage in the business of a sales finance company in this state without a license therefor as provided in sections 168.66 to 168.77 provided, however, that no bank, trust company, savings bank, savings and loan association, or credit union, whether state or federally chartered, industrial loan and thrift company, or ~~small loan company licensee under the Minnesota Regulated Loan Act~~ authorized to do business in this state shall be required to obtain a license under sections 168.66 to 168.77.

(b) The application for a license shall be in writing, under oath and in the form prescribed by the administrator. The application shall contain the name of the applicant; date of incorporation, if incorporated; the address where the business is or is to be conducted and similar information as to any branch office

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

of the applicant; the name and resident address of the owner or partners, or, if a corporation or association, of the directors, trustees and principal officers, and other pertinent information the administrator requires.

(c) The licensee fee for the fiscal year beginning July 1 and ending June 30 of the following year, or any part thereof shall be the sum of \$150 for the principal place of business of the licensee, and the sum of \$75 for each branch of the licensee, maintained in this state. Any licensee who proves to the satisfaction of the administrator, by affidavit or other proof satisfactory to the administrator, that during the 12 calendar months of the immediately preceding fiscal year, for which his license has been paid that he has not held retail installment contracts exceeding \$15,000 in amount, shall be entitled to a refund of that portion of each license fee paid in excess of \$25. The administrator shall certify to the commissioner of finance that the licensee is entitled to a refund, and payment thereof shall be made by the state treasurer. The amount necessary to pay for the refundment of the license fee is appropriated out of the general fund. All license fees received by the administrator under sections 168.66 to 168.77 shall be deposited with the state treasurer.

(d) Each license shall specify the location of the office or branch and must be conspicuously displayed there. In case the location be changed, the administrator shall endorse the change of location on the license.

(e) Upon the filing of such application, and the payment of the fee, the administrator shall issue a license to the applicant to engage in the business of a sales finance company under and in accordance with the provisions of sections 168.66 to 168.77 for a period which shall expire the last day of June next following the date of its issuance. The license shall not be transferable or assignable. No licensee shall transact any business provided for by sections 168.66 to 168.77 under any other name.

Sec. 25. Minnesota Statutes 1982, section 51A.50, is amended to read:

51A.50 FEDERAL SAVINGS ASSOCIATIONS AND SAVINGS BANKS.

Federal savings associations, federal savings banks, or federal savings and loan associations, incorporated pursuant to the laws of the United States, as now or hereafter amended, are not foreign corporations or foreign associations. Unless federal laws or regulations provide otherwise, federal associations, federal savings banks, and the members or stockholders thereof shall possess all of the rights, powers, privileges, benefits, immunities, and exemptions that are now provided or that hereafter may be provided by the laws of this state for savings associations organized under the laws of this state and for the members or stockholders thereof. This provision is additional and supplemental to any provision which, by specific reference, is applicable to federal associations and the members or stockholders thereof. Federal savings banks shall possess all of the

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

rights, powers, privileges, benefits, immunities, liabilities, and exemptions that are now provided or that hereafter may be provided by the laws of this state for federal savings and loan associations.

Sec. 26. Minnesota Statutes 1983 Supplement, section 332.50, subdivision 2, is amended to read:

Subd. 2. **ACTS CONSTITUTING.** Whoever issues any check that is dishonored and is not paid within 30 days after mailing a notice of dishonor and a copy of sections 332.50 and 609.535 in compliance with subdivision 3, is liable to the holder for the amount of the check plus a civil penalty of up to \$100, interest at the rate payable on judgments pursuant to section 549.09 on the face amount of the check from the date of dishonor, and reasonable attorney fees if the amount of the check is over \$1,250, and.

A service charge not exceeding \$15 may be imposed immediately on any dishonored check, regardless of mailing a notice of dishonor, if written notice of the service charge was conspicuously displayed on the premises when the check was issued.

This subdivision prevails over any provision of law limiting, prohibiting, or otherwise regulating service charges authorized by this subdivision.

Sec. 27. **REPEALER.**

Minnesota Statutes 1982, sections 47.75, subdivision 2; and 51A.44, subdivision 3, are repealed.

Sec. 28. **EFFECTIVE DATE.**

Sections 1 to 27 are effective the day following final enactment.

Approved April 26, 1984

CHAPTER 577 — H.F.No. 1806

An act relating to public welfare; amending the reporting of maltreatment of minors act; clarifying the roles of law enforcement and local welfare agencies; clarifying language; amending Minnesota Statutes 1982, section 626.556, subdivisions 3 and 11; amending Minnesota Statutes 1983 Supplement, section 626.556, subdivisions 1, 2, 4, and 10.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1982, section 626.556, subdivision 11, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.